

3/12/07

REMARKS

This Amendment is provided in response to the final Office Action of January 10, 2007. The reply has been timely made and an advisory action is respectfully requested. Claims 1, 4-5, and 12-24 are currently pending with claims 5, 12 and 14-22 being presently withdrawn pending rejoinder. Claim 13 is amended.

Color drawings

Petition to enter color drawings for Figure 1 was submitted on December 9, 2003 with three sets of color drawings and the required fee.

OK

Rejoinder

The pending claims of the present application were previously subjected to restriction. The elected group is directed to media compositions. Withdrawn claims include claims 5 and 12 directed to methods of making the media compositions and claims 17-22 directed to a method of using the elected media compositions. Upon allowance of the claims to the media compositions, Applicants respectfully request rejoinder of withdrawn claims 5, 12, and 17-22 as being methods of making and methods of using respectively with limitations corresponding to that of the media composition claims.

Since
case not
proper
not
rejoinder

35 U.S.C. § 112

Claim 13 is rejected as indefinite because the preamble does not match claim 1 from which it depends. This typographical error is corrected by amendment.

Drop

35 U.S.C. § 103(a)

Claims 1, 4, 13, ~~14-16~~ and 23-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 360196185A in view of Gottlieb (U.S. Patent No. 3,188,272), Chun (U.S. Patent No. 5,089,394) and Liao (U.S. Patent No. 4,437,997). Applicant respectfully traverses this rejection.

In order to establish a prima facie case of obviousness, three basic criteria must be met, namely: 1) the references when combined must teach or suggest all of the claim limitations; 2) a

suggestion or motivation to modify the references or combine the reference teachings must be present; and 3) the references when combined must provide a reasonable expectation of success. Applicants submit that all of these requirements have not been met.

The claims are directed to a **minimal media** consisting of monobasic potassium phosphate; ammonium chloride; heptahydrate magnesium sulfate; saccharose; and water, which may additionally include acid or base for pH adjustment, for culturing organisms such as fungi and/or yeast. The claimed media is contrasted with conventional medias which require complex nitrogen sources to support growth. Complex nitrogen sources are typically ingredients derived from other organisms, such as: yeast extract, digested casein, and/or peptone. See page 3 of the specification. Advantages of avoiding ingredients such as yeast extract generally include improved shelf life and reduced cost. See pages 25-26. The claimed minimal media has been demonstrated to efficiently evaluate colony counts such as fungi and/or yeast contamination in food processing installations as compared with conventional medias.

Limitation of spec not in claim

alleged credibility of refs of 11/10/07

JP 360196185A discloses a semi-synthetic culture medium for yeast, which includes ammonium chloride, magnesium sulfate, saccharose, and yeast essence. Therefore, JP 360196185A does not disclose the fully synthetic minimal media of the present invention which does not include non-synthetic ingredients such as yeast extract (i.e. yeast essence). In particular JP 360196185A makes no teaching of alternative sources than yeast essence. Gottlieb, Chun and Liao fail to cure the deficiencies of JP 360196185A. Gottlieb, Chun and Liao disclose various conventional medias containing one or more of yeast extract, peptone, beef extract, soybean meal, Brewer's yeast, etc.... Hence, JP 360196185A and Gottlieb and Chun and Liao, either alone or in combination, do not teach the claimed culture media consisting of monobasic potassium phosphate, ammonium chloride, heptahydrate magnesium sulfate, saccharose, and water. Therefore, the combination of JP 360196185A and Gottlieb and Chun and Liao fails to teach or suggest the invention of claim 1.

see notes

NO

NO

In fact none of the cited references, either alone or in combination provide any guidance that only 5 ingredients are sufficient for a culture medium. No guidance is provided for selection of only particular disclosed ingredients and exclusion of other ingredients, such as yeast extract. Furthermore, there is no teaching in any of the references cited that would suggest that omission of ingredients providing large quantities of nutrients, such as yeast extract, peptone, or

guidance in art re claim that there

my results have been exp to succ results OK of still would have exp them to write a method of for gelatin selection

Gottlieb Yeast select for non-yeast growth

Brewer's yeast, could be excluded from the medias taught by JP 360196185A and Gottlieb, and Chun and Liao but still result in a functional media. *obv*

Furthermore, claim 14 requires specific amounts of potassium phosphate, ammonium chloride, magnesium sulfate, and saccharose for inclusion in the claimed culture media, while claim 15 requires a specific pH range for the claimed culture media and claim 16 specifies that the media is suitable for growth of fungi and/or. The subject matter of claims 14, 15 and 16 are also not disclosed or suggested by the combination of JP 360196185A with Gottlieb, Chun and Liao. *optimum amt*

For at least these reasons, the combination of JP 360196185A with Gottlieb, Chun and Liao fails to render claim 1 obvious. As claims 4, 13-16 and 24 are dependent on claim 1, they are also not rendered obvious. Applicant respectfully requests that this rejection be withdrawn. Applicants also respectfully request rejoinder of the corresponding withdrawn method of making and method of use claims.

Summary

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: March 12, 2007

Anne M. Murphy
By: Anne M. Murphy
Reg. No. 54,327